

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
IN AND FOR UTAH COUNTY, STATE OF UTAH.

PROVO RESERVOIR COMPANY,
A corporation Plaintiff.

NO 2888 Civil.

VS

Petition for order to show
cause.

PROVO CITY, et al; Defendants.

The petition of Caleb Tanner respectfully shows to
the Court;

1. That petitioner is the owner of 20 and one third
acres of primary water right in the Provo Reservoir Company's
Provo River Irrigation System, and is the owner of capacity
in the main canal of said Irrigation system which extends from
a point known as Heiselts in Provo Canyon to the Center of
Section 12, Tp 6 South of Range 2 East S.E.M, sufficient to
flow said acres of water therein and is a tenant in common
with other water users in the said canal.

2. That petitioner has heretofore leased said acres
of water right for use by the following parties in the Iona
Lateral for the season of 1925; to wit to William Burr
Nine and one third acres; to J.D.Gatenby, six acres; to
Willard Bishop, five acres; and has heretofore made an
agreement with the irrigators and water users in the said Iona
Lateral for the use of said waters through the said lateral
for the said irrigation season of 1925.

3. That said waters are waters decreed by the Court
in the decree heretofore rendered in the above entitled action ;

4. That on or about the 5th day of June, 1925, the
above entitled Court made and entered herein an order directing
T. F. Wentz as Commissioner herein to divert said 20 and one
third acres of water into the main canal of the said Provo

Reservoir Company's Provo River Irrigation system for the use of petitioners said lessees herein above named in the Iona Lateral as soon as there should be an unused capacity in the said canal to carry said waters; that said Commissioner delivered the said waters, approximately .2 of a second foot into the said main canal for distribution into the Iona Lateral for the use of petitioners lessees on the 20th day of June, 1925, and said waters have at all times since been and now are in said canal and passing the headgates of said Iona Lateral;

5. That Provo Reservoir Water Users Company a corporation has assumed the regulation and control of the diversion of waters from said main canal into the said Iona Lateral, and one J. W. Gillman, whom petitioner alleges is an employee and agent of said corporation is in active charge of the said distribution of said waters from said main canal into the said Iona Lateral; that petitioner has advised the said J. W. Gillman of the presence of his water in the said main canal at the head of said Iona Lateral and requested its diversion therein; that the said J. W. Gillman has wrongfully refused and now does wrongfully refuse to divert the said waters from said main canal into the said Iona Lateral and alleges that the said Provo Reservoir Water Users Company assumes to direct the said J. W. Gillman not to make such diversion; that petitioner has exhibited to said J. W. Gillman a certified copy of the said order of the Court heretofore herein made directing said Frank Wentz to turn said 20 and one third acres of water into the said main canal for the use of the petitioners said lessees in the said Iona Lateral;

6. That the above entitled Court has heretofore made and entered an order appointing T. F. Wentz as commissioner to distribute the waters awarded under the said decree herein rendered, and that under the said decree it becomes the duty of the said T. F. Wentz when so ordered by the Court to distribute

said waters to the users thereof;

7. That petitioner is entitled to the use of the said waters by his said lessees but is unable to go into the said canal and distribute the said waters personally without committing a breach of the peace.

Wherefor, petitioner prays that the Court now make and enter an order herein directing the said T.F.Wentz as such Commissioner to divert from the said main canal the said ^{acres} 20 and one third ~~shannas~~ of primary water into the said Iona lateral immediately for the use of petitioners said lessees or in the alternative that the Court direct the said J.W.Gillman to divert the said waters, being an equivalent of .2 of one second foot, from said main canal into the said Iona Lateral for the use of petitioners said lessees; and further order that if the said T.F.Wentz or the said J.W.Gil man shall fail to make such diversion on receipt of a copy of such order, then that such person so failing shall show cause before this Court why he has not done so, on a day certain; that the court prescribe the notice to be given hereof.

That the Court shorten the time of such order to show cause to 10 o' clock A.M. Monday June 29, 1925, provided said order be served not later then June 26, 1925.

Caleb Tanner

STATE OF UTAH)
COUNTY OF UTAH) SS

CALEB TANNER Being first duly sworn deposes and says that he is the petitioner named in the above and foregoing petition; that he has read the same and knows the contents thereof and that the same are true of his own knowledge except as to matters and things stated therein on information and belief and as to those matters he believes it to be true.

Subscribed and sworn to before me this
25th day of June, 1925.

Caleb Tanner
Notary public;
Residence, Provo, Ut.
My commission expires Mar.8, 1929.